

MINUTES
Beaches and Shores Advisory Committee
Thursday, March 6, 2014, 9:00 A.M.
Charlotte County Building Construction Services Conference Room
18400 Murdock Circle, Port Charlotte, FL 33948

****Please note that one or more Charlotte County Commissioners may be in attendance at any meeting of the Beaches and Shores Advisory Committee****

Members Present

Jack Landis, Member-at-Large, Vice Chairman
Tommy Brock, District 3
Katherine Ariens, District 2
Rich Parchen, District 4

Members Excused

Clifford Kewley, District 5, Chairman
Robert Pierce, FL Shore & Beach Preservation Association
Dick Whitney, District 1

Staff Present

Commissioner Stephen R. Deutsch, District 4
Shaun Cullinan, Planning / Zoning Official
Gayle Moore, Recording Secretary

Guests Present

Michael Poff, Coastal Engineering Consultants
Chuck Mopps, Charlotte County Engineering Division
Roger DeBruler Jr., Parks and Natural Resources, Charlotte County
Wilma Katz, Coastal Wildlife Club
Carole Leonard, Coastal Wildlife Club
Curt Lundeen, Coastal Wildlife Club
Lynette Auger, Parks and Natural Resources, Charlotte County
Chad Lach, Florida State Parks

Vice-Chairman Jack Landis called the meeting to order at 9:05 a.m. and remarked on the absence of Chairman Clif Kewley due to illness.

On motion by Katherine Ariens, seconded by Tommy Brock, and carried unanimously, the Minutes from January 2, 2014 were approved as presented.

Commissioner Deutsch led the group in the Pledge of Allegiance. Vice-Chairman Landis called for any additions or deletions to the Agenda.

Additions/Deletions to Agenda

Mr. Poff asked to have a discussion of the Sea Turtle Ordinance going to the Board on Tuesday added to today's meeting; he thought that either Ms. Auger or Commissioner Deutsch would have information about it to share, especially as it may impact on their program in the future.

Chairman Comments

Vice-Chairman Landis reserved the right to make his comments at the end of the meeting.

Citizen Comments on Agenda Items

None were offered.

Commissioner Comments

Commissioner Deutsch spoke about a recent trip he made to Englewood and a meeting he had with the owner of the marina near the White Elephant about putting a mooring field out, who he said was supportive of the concept. The Commissioner said he felt more study is needed especially with regard to the environmental impact of the boats which just stay there. He asked Mr. DeBruler how many vessels were there now and was told there are about 15 vessels there now.

Old Business

Vice-Chairman Landis next moved to Old Business, and called for any discussion of the information from the Joint Meeting held on February 5th. Ms. Ariens commented on the difficulty of assimilating any information given the forum and what took place there. Commissioner Deutsch said he felt there were people present that had their boats in the area and who were colorfully vocal on the concept of the mooring field, and are against regulation generally.

The Commissioner also noted the presence of a makeshift ladder at Chadwick Park, something which was definitely not installed by the County, and this serves dinghies from boats in the area. He also said he had talked some folks at the marina, asking how often people moved their boats to have them pumped out, and was told that no one does this. This is a concern regarding establishment of a mooring field, which would probably include a pump-out boat or use of facilities in the Lemon Bay area; he said he had also heard that there were a half dozen boats that have been there forever and never move – so the question is when and how do they get rid of their waste? Ms. Ariens acknowledged this was a concerning issue and asked how proper pump-out behavior regulated? Would we review their receipts? How do you know they got the pump out done?

The Commissioner agreed that was a good question, stating that, clearly, the waste is going somewhere, because the boats aren't going to stations. He said he was not sure what form regulation would take, or whether the Coast Guard Auxiliary or the Marine Enforcement agency had sufficient personnel to accomplish it. Mr. DeBruler commented that they do have the personnel, but it is viewed as a secondary aspect of their job. He said that he had gone along on some inspections of boats and their facilities, but this can only be done if there is someone on the boat. Further discussion ensued, with Mr. Brock commenting that some of the boats do not have holding tanks; he provided some other details based on his long tenancy in the area. Further discussion ensued on the boat population and condition of vessels, and some of the services currently available which are primitive.

Mr. Poff commented that his group has worked on several mooring fields in Southwest Florida, working with other groups in the area; he said it was a sensitive subject, involving design and permitting. He also noted that this is an optimal time to move forward because of current regulations and the availability of permits. He cautioned, however, that there is management activity that will have to take place once a mooring field is established. There is little to no enforcement since staff have to actually see the waste being disposed of improperly in order to act; numerous complications are involved. His final comment was for all concerned to recognize that you will get opposition from a handful of people and also that some people will simply go outside the mooring field limits to escape regulation.

Ms. Ariens commented again on the Joint Meeting, and the need to recognize the anger level expressed there, and the need to be inclusive; she felt that limitations on speech, even angry

speech, don't work. The resistance and anger are all based on fear of change, which has to be addressed. She agreed that people would go outside the field to escape the regulation.

Mr. Poff commented that there were lots of grants available for sewage pump-out boats through the State program, whether the County would apply for and manage it, or partner with local marinas. FWC and other institutions pay almost 90% of the costs associated with the pump-out boats. Ms. Ariens said she realizes she doesn't know what the actual fear is, whether it is about the cost of pump-out, or whether they would be uprooted. She asked if the boats already there could be "grandfathered in" to such a program so that they could pump for free; that would meet the goal of protecting the environment. Mr. DeBruler responded that the people currently there have indicated they would leave if a mooring field was established; if the concern is over what is happening to their sewage, it might be more advantageous to create a pump-out system there so they use it; create a rule that they have to maintain records of pump-out, and this might address the problem. If that's not the case, and the County is more interested in regulating where those vessels are sitting, then a mooring field is the better answer.

Vice-Chairman Landis asked Commissioner Deutsch for his response to this; the Commissioner responded that if people are considerate and not abusing the environment and are getting pumped out, then there's no problem; that's the environmental aspect. There is also a boater safety issue; he spoke about his experiences on the water in other areas and what he has been told about activities there: specifically, the idea that there are no anchor lights on; Vice-Chairman Landis agreed that had been the case, but he also saw that as of last week, a number suddenly started having lights, but he didn't know what drove the change. Mr. DeBruler ascribed this change to the \$1 WalMart solar light which, unfortunately, doesn't run all night and are not acceptable under Coast Guard regulations. Commissioner Deutsch offered additional comments about mooring fields and why they are used in his past experience.

Mr. Brock questioned whether it might work to have a pump-out boat, noting there is a place to put it where the extra lift is that no one uses; this would provide a central location for this need. Then you also designate a zone where you CANNOT anchor; this could be the manatee zone. He agreed that if you make a mooring field, some folks will just leave. He noted that they have done this in Sarasota and it is outstanding, it really works. Mr. Brock also spoke about the fact that unofficial anchorage spots have been added to charts so those unfamiliar with the area end up right in the middle of the channel. His suggestion is create the mooring field and field a pump-out boat which gives receipts to customers; he asked Vice-Chairman Landis whether in his opinion residents of the Key would support this? Vice-Chairman Landis replied that they've been asking for it for at least 10 years. In the interests of moving ahead, the Vice-Chairman asked the Committee if they would make a recommendation to the Commissioners to explore the possibility of a pump-out facility.

Ms. Ariens asked about the existing pump-out boat that travels and seeks clarification that the Committee is now talking about an additional boat. It was noted that there's one serving Punta Gorda, and that this would be a second boat.

A motion by Mr. Parchen, seconded by Mr. Brock and carried unanimously, to have commission consider a second pump-out boat for the Lemon Bay area. Ms. Ariens asked for clarification that this for the purpose of defining the cost, which it was.

2. Reports on Mitigation Areas – Lynette Auger, Parks & Natural Resources

Ms. Auger delivered her report on nesting sites for the 2013 bird season beginning in February and going through to August/September, accompanied by a handout showing the various locations and what was monitored there, the types of bird and the numbers of each type (a

copy of this report is attached hereto and made a part hereof.)

There followed some questions from Vice-Chairman Landis on this year's statistics and on possible effects from the power boat races and how will we mitigate for that. On this year's statistics, Ms. Auger reported that there are no nests documented yet, although a Wilson's Plover has been sighted in a mitigation area. On the races, Ms. Auger said there will be monitors on the ground for the entire event, at the request of FWC; there will also be an FWC officer on the ground at Stump Pass and on Palm island.

Mr. Lach said that the FWC had requested to have the racecourse moved further north; but according to the organizer, he has no control over the racecourse – it is set up by Coast Guard a week before the event. Commissioner Deutsch said that information should be confirmed with the Coast Guard, and Mr. Lach agreed. Ms. Auger noted that they may test to see the depths, noting that there's a large sandbar out there in that area. Mr. Lach pointed out that it's the spectators, not so much the racing boats, that will make the impact, and if that is further north, it will get people way from the nesting areas. Ms. Carole Leonard asked when spectators will actually be on the beach, would that be at night also, and Ms. Auger confirmed that it would be.

3. Discussion on the Stump Pass 10-Year Inlet Management Plan Comments from Humiston & Moore on behalf of the Palm Island Civic Association and the response from the County.

Mr. Mopps reported on this matter noting that the response has already been shared with the BSAC, asking if there were any questions about that response. Vice-Chairman Landis stated that it was well done. Mr. Brock asked if there had been anything further, which there had not, which was taken as good news. Discussion ensued about the submittal process and content, including comments about differences in how the dredging is accomplished now (e.g., not taking sand from Stump Pass as in the past) which will not affect the shoreline status quo. Now concerns are more about the dredge protocols; in other words, given specific circumstances, when can work commence – the "trigger points" for work to be approved – these are the dredge protocols. Further discussion ensued on the process timeline, on handling questions through webinars and stakeholder meetings, and the process requirements in general – these are elements to be evaluated along with their effects on the timeline of the process. The current target is April for all this to come together and be sent out. Mr. Poff indicated he wanted to appear at the April meeting to give an update.

Mr. Brock raised a question about how far north this permit is proposing to go – is it going north of the public beach? Mr. Poff answered with respect to the zone of influence of Stump Pass is from R12 to south of the south line of the County's public beach down to about R39.5, R40, or the beginning of Don Pedro State Park Beach.

However, there is more credit available from the State funding system by having public access, so it makes sense to include the north side of the north public beach or from R9 to R40. He pointed out that the initial placement will not take sand up there, but the County will have in their permit, when approved, the ability to put sand all the way up to R9 in the future.

Mr. Brock noted that this came up at one of the Manasota Key meetings, because there are some, south of the County line, where there was a problem. Mr. Poff responded that there are folks north of the public beach who have inquired how to get into the program; he said he gave them information and encouraged them to attend BSAC meetings, and to meet with their commissioners. This is an ongoing conversation with residents of the Key, and it is always split 50/50 between people who want or don't want to get in on it. It does involve people

being willing to pay their fair share. Mr. Mopps observed that the MSBU would have to be expanded because you have to pay your share if you are included.

Further discussion ensued, covering the varied response from residents, who generally did not come to events like the Joint Meeting, and on the unfortunate circumstances in places where mitigation has not been done, such as rock revetments failing and hard bottom issues beginning to occur.

Mr. Mopps commented on the financial side, noting that the MSBU only exists up to a certain point which is already getting sand; to expand, there will have to be procedures followed to get these new folks into the MSBU—there would have to be mass mailings, etc. but it might take a year to push the changes through. They are currently working with Real Property to re-do the easements.

Further discussion ensued, regarding the range of effects from Stump Pass, similar activities in Venice and whether all this work in the neighboring counties could result in greater credit within the State funding mechanism.

New Business

Short PowerPoint Presentation on the Abandoned Vessel Program – Roger DeBruler, Natural Resources.

Mr. DeBruler presented a PowerPoint on the abandoned vessel program (a copy of which is attached hereto and made a part hereof). He provided commentary throughout, at the conclusion of which he took questions from the group.

Ms. Ariens asked, with regard to information provided about enforcement going after the owner of record, is that for research or responsibilities? Mr. DeBruler replied that it is a matter of the responsibility resting with the owner of record, and gave an example where the buyer of a boat never completes transfer of the title; in this case, the former owner would be responsible for any problems involving the vessel. He commented that on how the same applies to cars also; Mr. Mopps provided a personal example of a situation where a car dealership never recorded transfer. In response to Ms. Ariens' question of how to protect against such a situation, Mr. Mopps suggested keeping documentation that establishes the transfer (sales receipt, etc.) Further discussion ensued about this liability situation.

Mr. Brock questioned whether there was any law about how long a boat can stay on the water? Mr. DeBruler responded that inside an anchorage area, there would be, but outside that area there would not. There was also discussion on the difficulty with establishment of mooring fields in aquatic preserves e.g., Chadwick Cove and in Sarasota; some were established prior to creation of the preserve. Further discussion ensued on this matter, with Mr. Poff commenting on the law to date: counties which try to get limits on mooring outside established fields lose in court; federal law is also involved, but that is primarily navigational (e.g., you can regulate a person who is impeding someone else's navigation.) It was suggested that Betty Staugler might be the person to talk to about this; Vice-Chairman Landis requested that she be contacted, and Ms. Auger indicated she had made a note to call Ms. Staugler.

Report from Shaun Cullinan, Charlotte County Planning/Zoning Manager, regarding the County's anticipated preparations for sea level rise.

Mr. Cullinan presented a brief PowerPoint about material in the Comprehensive Plan which references sea level rise and the steps to be taken; he also touched on the considerations about additional costs associated with siting public facilities near the water, in the Coastal High

Hazard Area (CHHA), and the County's intention is to limit the types of uses that border the water, due to these additional costs and safety issues. He noted that public opinion was divided on the subject of "if and when" there would be sea level rise and what the extent of the effects would be. He demonstrated for the group where on the County's website they could find additional details on County policy within the Comp Plan.

Commissioner Deutsche left for another meeting at 10:26 AM

Vice-Chairman Landis asked if the comments in the first part of his presentation pertained to public owned facilities or to private? Mr. Cullinan responded that the Comp Plan refers to both public and private structures and uses; basically the idea is just not to put more new stuff right near the water. Existing structures can only be dealt with during redevelopment.

Mr. Brock asked whether anything in the Comp Plan addresses types of construction of new structures that recognizes this eventuality; Mr. Cullinan noted that the County follows FEMA regulations in these matters, plus we require an extra foot or two in height which helps us to get better overall flood insurance rates for the County. That is less a matter of the Comp Plan than it is the Florida Building Code.

Further discussion ensued on other related issues.

Report regarding the County's new Sea Turtle Protection Ordinance presented by Lynette Augur.

Ms. Augur noted that this was not so much a new ordinance as it was the updating of the existing ordinance, done in response to new FWC regulations regarding lighting issued in the latter part of 2010, especially in anticipation of the forthcoming permit request for dredging of Stump Pass.

There has been some 'back and forth' on verbiage, specifically regulations that already exist in other parts of the Code needed to be included here for ease of reference. Some on the Planning and Zoning Board had asked for the Code Compliance portion to be removed; Ms. Augur strongly recommended against this at the hearing, since when neither the Sheriff nor FWC personnel are available to respond to a situation, County staff has no standing to act. Mr. Cullinan agreed that County staff need these tools in the toolbox.

There is also sentiment that these issues should be handled at the state level, but the state has set their regulations up for the counties to handle this; Mr. Cullinan noted this could be considered an 'unfunded mandate'. It was noted that the matter is currently scheduled to go before the Commission on March 11th.

Mr. Mopps asked if there would be any language in the ordinance that would affect work that needs to be done at Stump Pass; Mr. Poff commented that they need to see the revised language in order not to be limited on permitting for the renourishment project in future. He asked where the language can be reviewed so they can advise on it; Mr. Cullinan noted it would be discussed at pre-agenda this afternoon and that Dan Quick and Ty Harris would be involved. Further discussion ensued on how the agenda item got moved up to the 11th; on the process to date and the pushback staff received from the P&Z Board after the presentation there; about how the new language would affect private property owners and animal owners taking their dogs off private property and onto the public beach.

Vice-Chairman Landis commented regarding the need for staff to get together especially with respect to impeding the beach renourishment permit application. Mr. Poff agreed that this

needs some additional time for comment and review. Mr. Cullinan suggested taking it to Administration.

Ms. Leonard commented on the matter, advising that if people could see version that went to Planning and Zoning, they would understand how much had been removed at the request of that Board. Ms. Augur noted that the version which went to the BCC has notes about the language removal. Mr. Poff asked what was the basis for the language removal, and Ms. Augur responded that Board members felt there should only be state regulations, nothing at the County level; Mr. Mopps noted that they are not looking at it from the viewpoint of the County's needs. Mr. Cullinan explained the intended process where these regulations are discussed when you come in for a permit, not enforced as a sweep operation; the P&Z Board member who is a contractor on the coast felt that even discussing the matter at the permitting stage would be onerous. And despite the fact that these were not new rules, the P&Z Board reacted as though this was all new rules.

Citizen Comments

Ms. Leonard said she felt that the important thing is the enforcement language that the P&Z removed. They removed it completely even though the State has no mechanism to come in and enforce local code, so there is now no way to manage this. Ms. Leonard emphasized that the version as it went to P&Z was the better version. Further discussion ensued on possible future outcomes; Mr. Cullinan urged those with strong feelings about the matter to attend the Commission hearing when it comes forward.

Staff Comments

None

Member Comments

Mr. Brock indicated that he would like the web address of the BCC agenda packet material concerning the Sea Turtle Protection matter.

Ms. Ariens indicated she would like to see a better format for the next joint meeting; specifically wants more control of the environment, so that it can be an environment for learning things rather than an airing of personal issues. Vice-Chairman Landis indicated that he was underwhelmed with joint meeting, felt it was a fiasco, and needs direction in running the meeting – it was supposed to be about addressing common problems, not a complaints forum from boaters who don't want to dump properly and don't want to pay taxes. Mr. Brock said he agreed that there should be some procedural rules, but you have to remove belligerents.

Turning to a new matter, Mr. Brock asked who is in charge of putting signs in the water near the public beach, which say that you can't come in to the beach; Ms. Auger indicated her group did that. Mr. Brock commented that after storms, which created much damage to those signs; he felt that there must be some technology available to put up signs could withstand the weather. He felt these current signs are useless now, and also (being metal) dangerous. Chad Lach recommended the use of swim buoys instead; you can write on the buoys themselves.

Next Meetings

Vice-Chairman Landis thanked the participants and reminded all of the upcoming meetings.

- The next Regular Meeting of the Beaches and Shores Advisory Committee will be Thursday, **April 3, 2014** at 9:00 a.m. in the BCS Conference Room.

Adjournment

On motion by Jack Landis, seconded by Rich Parchen and carried unanimously, the meeting was adjourned at 10:53 a.m.

Respectfully submitted,

Gayle Moore
Recording Secretary

Minutes Approved by:

Clifford Kewley, Chairman
Beaches & Shores Advisory Committee